

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In re:)	Chapter 7
)	
JASON LEWIS ZILBERBRAND,)	Hon. A. Benjamin Goldgar
)	
Debtor.)	Case No. 17-04034

NOTICE OF MOTION

To: Attached Service List

PLEASE TAKE NOTICE that on November 16, 2018, at 1:00 p.m., I will appear before the Honorable Benjamin Goldgar, or any judge sitting in that judge's place, in the North Branch Court, 1792 Nicole Lane, Round Lake Beach, Illinois 60073, and present the *Application of Ilene F. Goldstein, as Trustee for Jason Lewis Zilberbrand, for an Order Authorizing the Trustee's Employment of Litigation Special Counsel*, a copy of which is attached.

Dated: November 6, 2018

ILENE F. GOLDSTEIN, as Trustee
for Jason Lewis Zilberbrand

/s/ Carolina Y. Sales

One of her attorneys

Paul M. Bauch (ARDC #6196619)
Carolina Y. Sales (ARDC #6287277)
BAUCH & MICHAELS, LLC
53 W. Jackson Boulevard, Suite 1115
Chicago, Illinois 60604
Tel.: (312) 588-5000
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CERTIFICATE OF SERVICE

I, Carolina Y. Sales, certify that I served a copy of this notice and the attached motion on each entity shown on the attached list at the address shown and by the method indicated on the list on November 6, 2018 at 11:10 a.m.

/s/ Carolina Y. Sales

SERVICE LIST

VIA U.S. MAIL:

Jason Lewis Zilberbrand
4560 Eleanor Dr.
Long Grove, IL 60047

VIA CM/ECF:

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jdan@craneheyman.com,
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Ilene F Goldstein on behalf of Trustee Ilene F Goldstein, ESQ
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Patrick S Layng
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Candice M. Manyak on behalf of U.S. Trustee Patrick S Layng
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FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In re:)	Chapter 7
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JASON LEWIS ZILBERBRAND,)	Hon. A. Benjamin Goldgar
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**APPLICATION FOR AN ORDER AUTHORIZING TRUSTEE'S
EMPLOYMENT OF LITIGATION SPECIAL COUNSEL**

Ilene F. Goldstein, as Trustee (the "Trustee") for Jason Lewis Zilberbrand ("Zilberbrand" or the "Debtor"), hereby applies for an Order, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code and Fed. R. Bankr. P. 2014 authorizing the employment and retention of Paul M. Bauch, Carolina Y. Sales, and Kenneth A. Michaels Jr. of Bauch & Michaels, LLC (collectively, "Bauch & Michaels"), as litigation special counsel.

I. JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).

II. BACKGROUND

3. On February 14, 2017 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 7, Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division (the "Court").

4. The Trustee has been appointed as the duly appointed, qualified, and acting bankruptcy Trustee for the Bankruptcy Estate of Jason Lewis Zilberbrand.

5. David Gassman (“Gassman”) is a creditor who holds an unsatisfied judgment and other claims against the Debtor. Bauch & Michaels represented Gassman in this case. Gassman previously sought dismissal of this case pursuant to Section 707(a) of the Bankruptcy Code, and such relief was denied.

6. In connection with the bankruptcy case, Bauch & Michaels reviewed the Debtor’s schedules and statement of financial affairs; attended the Section 341 meeting of creditors; obtained the Court’s entry of orders authorizing production of documents and examinations pursuant to Rule 2004; examined documents produced by the Debtor and third parties; conducted the Rule 2004 examination of the Debtor; filed a Motion to Dismiss Chapter 7 Case; and conducted an evidentiary hearing on the Motion to Dismiss.

7. Bauch & Michaels has also substantially completed a legal analysis of the estate’s potential claims against the Debtor’s insiders, including, but not limited to, whether the estate may recover fraudulent conveyances and whether the Debtor may be held in civil and criminal contempt for making false statements in testimony before this Court.

8. In performance of her duties as defined in 11 U.S.C. § 704, the Trustee has met and conferred with the Bauch & Michaels regarding its investigation of the Debtor, reviewed certain of the work product prepared by Bauch & Michaels, and otherwise commenced an investigation of the financial affairs of the Debtor. The Trustee has preliminarily concluded that the estate may have claims against the

Debtor's insiders and third parties that may be sufficient to satisfy claims filed against the estate.

III. RELIEF REQUESTED

9. The Trustee seeks authority, pursuant to 11 U.S.C. § 327(a) and (c) and Fed. R. Bankr. P. 2014, to employ and retain Bauch & Michaels as special litigation counsel, effective as of the Appointment Date. Pursuant to 11 U.S.C. § 327(a), the Trustee may employ attorneys:

That do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

10. The Trustee seeks to employ Bauch & Michaels to pursue fraudulent transfer and other avoidance actions. Bauch & Michaels has indicated a willingness to act on the Trustee's behalf. Bauch & Michaels will provide legal services to the Trustee and the estate in its role as litigation counsel as may be requested by the Trustee, including, without limitation, the following:

- a. Prosecution of avoidance actions on the estate's behalf;
- b. Preparation, on behalf of the Trustee, all necessary motions, responses, pleadings, orders, reports and papers in connection with the prosecution of the estate's claims as described herein; and
- c. Appearance at court hearings on behalf of the Trustee in connection with the prosecution of such claims.

11. The appointment of Bauch & Michaels as litigation counsel is required to protect the interests of the estate. It is necessary and essential that the Trustee,

in order to perform her duties as Trustee, employ Bauch & Michaels to render the foregoing professional services. Bauch & Michaels has already investigated numerous avoidable transfers made by the Debtor and other potential misconduct, and Bauch & Michaels' retention will save the Trustee from incurring expenses related to a new investigation of the Debtor by other counsel.

12. To the best of the Trustee's knowledge, and except as disclosed herein and in the attached Affidavit of Paul M. Bauch (the "Affidavit"), Bauch & Michaels does not hold or represent any interest adverse to the Debtor's estate. Bauch & Michaels filed an appearance and conducted an evidentiary on behalf of Gassman but is otherwise "disinterested." However, pursuant to 11 U.S.C. § 327(c), Bauch & Michaels is not disqualified for employment under this section solely because of its employment by Gassman, because Bauch & Michaels does not have an actual conflict of interest. The interests of Gassman and the interests of the Trustee in connection with the recovery of property for the estate coincide. Any recovery for the estate would increase Gassman's recovery.

13. Bauch & Michaels has not entered into any agreement to share compensation for services rendered in this case, except as permitted under Section 504(b) of the Bankruptcy Code. Bauch & Michaels will charge for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates as in effect on the date services are rendered. The principal attorneys who will represent the Trustee in the matters described herein and their standard hourly rates are:

PROFESSIONAL	POSITION	RATE
Paul M. Bauch	Partner	\$400/hour
Kenneth A. Michaels Jr.	Partner	\$375/hour
Carolina Y. Sales	Partner	\$240/hour

14. Such standard hourly rates are subject to adjustment generally as of January 1st of each year. Other attorneys and support staff, including paralegals, may provide services to the Trustee in connection with this bankruptcy proceeding, within the following ranges: for attorneys, from \$240 to \$400 per hour, and for paralegals, \$95 per hour.

15. In addition to seeking payment for such hourly charges, Bauch & Michaels will charge for all extraordinary or non-overhead expenses actually incurred on behalf of the Trustee, consistent with its normal practices. These expenses and charges may include conference call telephone charges, volume mail and express mail charges, messenger services, hand delivery and other delivery charges, travel expenses, computerized research, transcription costs, document processing, volume photocopying charges, and other extraordinary, non-overhead expenses.

16. The Trustee believes that the proposed rates are reasonable for the services for which retention is sought. Except as may be provided in separate compensation and expense reimbursement procedures orders, payment for services will be made only after notice and hearing pursuant to Section 330 of the Bankruptcy Code and an order of this Court.

WHEREFORE, the Trustee requests the entry of an order authorizing the retention of Bauch & Michaels effective as of November 16, 2018 to represent the Trustee as counsel with respect to the matters set forth herein.

Dated: November 6, 2018

ILENE F. GOLDSTEIN, as Trustee
for Jason Lewis Zilberbrand

/s/ Carolina Y. Sales

One of her attorneys

Paul M. Bauch (ARDC #6196619)
Carolina Y. Sales (ARDC #6287277)
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